

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

IN THE MATTER OF:

RICO CLAIMS¹

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**All CIVIL cases before
JUDGE S. E. CASELLAS**

**STANDING ORDER
Requiring Filing of RICO Case Statement**

In order to assure the efficient management of its caseload, the Court considers it appropriate and advisable to enter this Standing Order mandating the filing of a **separate** and **detailed** case statement in all cases where RICO claims are asserted. In so doing, the Court adopts Judge Selya's statements in Miranda v. Ponce Federal Bank, 948 F.2d 41 (1st Cir. 1991), regarding RICO suits:

Civil RICO is an unusually potent weapon- the litigation equivalent of a thermonuclear device. The very pendency of a RICO suit can be stigmatizing and its consummation can be costly; a prevailing plaintiff, for example, stands to receive treble damages and attorneys' fees. See 18 U.S.C. 1964(c). For these reasons, it would be unjust if a RICO plaintiff could defeat a motion to dismiss simply by asserting an inequity attributable to a defendant's conduct and tacking on the self-serving conclusion that the conduct amounted to racketeering. Hence, to avert dismissal under Rule 12(b)(6), a civil RICO complaint must, at a bare minimum, state facts sufficient, to portray (i) specific instances of racketeering activity within the reach of the RICO statute and (ii) a causal nexus between that activity and the harm alleged. 948 F.2d at 44.

Thus, the Court has chosen to enter this Standing Order to avoid unnecessary expenditures of the parties and the Court's time and resources, and to prevent the filing of motions to dismiss for failure to state an adequate RICO claim. For these reasons, strict compliance with this Order is required, and **failure to do so may result in the dismissal of the action.**

¹ Brought under the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961 et seq.

Filing Requirement

The Court hereby ORDERS each party asserting a RICO claim to file a separate RICO statement contemporaneously with the filing of the complaint, counterclaim, etc., where such claims are first brought.

Content of the RICO Statement

So that the Court may adequately evaluate whether RICO has been properly invoked, the statement required by this Order must specifically state the facts upon which claimant bases his RICO claims, arrived at after the "reasonable inquiry" required by Rule 11 of the Federal Rules of Civil Procedure.

Format of the RICO Statement

To assist claimants in the preparation of their statements and foster uniformity in the filings, the Court ORDERS that all statements comply with the following format:

I. Statutory authority

A. State whether the alleged unlawful conduct is in violation of

1. 18 U.S.C. 1962(a)

a. State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt;
and

b. Describe the use or involvement of such income.

2. 18 U.S.C. 1962(b)

Describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

3. 18 U.S.C. 1962(c)

- a. State who is employed by or associated with the enterprise; and
- b. State whether the same entity is both the liable "person" and the "enterprise" under this subsection of the law.

4. 18 U.S.C. 1962(d)

Describe in detail the alleged conspiracy.

II. Individuals or entities involved or affected

A. For each defendant charged with a RICO violation, state

- 1. The alleged misconduct; and
- 2. The basis of liability.

B. Name all other wrongdoers who are not defendants in the present case and state their alleged misconduct.

C. List all alleged victims and the injuries allegedly suffered by each.

III. Pattern of racketeering activity

A. Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim, including

- 1. A list of the alleged predicate acts and the specific statutes allegedly violated;

If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "circumstances constituting fraud or mistake shall be stated with particularity." Fed. R. Civ. P. 9(b),

including

- a. The time, place, and contents of the alleged misrepresentations;
and
 - b. The identity of the persons to whom and by whom the alleged misrepresentations were made.
2. The dates of the predicate acts and the specific statutes which were allegedly violated;
 3. Whether there have been criminal convictions in relation to these predicate acts;
 4. Whether civil litigation has resulted in a judgment related to these predicate acts;
 5. How the predicate acts form a "pattern of racketeering activity;" and
 6. Whether the alleged predicate acts relate to each other as part of a common plan, and if so, how do they specifically relate.

B. Describe in detail the alleged enterprise for each RICO claim, including

1. The names of the individuals, partnerships, corporations, associations, or other legal entities which allegedly constitute the enterprise;
2. The structure, purpose, function, and course of conduct of the enterprise;
3. Whether any defendants are
 - a. Associated with the alleged enterprise;
 - b. Individuals or entities separate from the alleged enterprise; or

- c. The enterprise itself, or members of the enterprise as
 - (1) perpetrators;
 - (2) passive instruments; or
 - (3) victims of the alleged racketeering activity.

- C. State and describe in detail whether you are alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity;
- D. Describe what benefits, if any, the alleged enterprise receives or has received from the alleged pattern of racketeering;

IV. Injury and causal nexus

- A. Describe the effect of the activities of the enterprise on interstate or foreign commerce;
- B. Describe the alleged injury to business or property;
- C. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute;
- D. List the damages sustained, indicating the amount for which each defendant is allegedly liable;

V. Other causes of action


- A. List all other federal causes of action alleged in the complaint, if any, and provide the specific statutory authority on which they are based;
- B. List all pendent state claims alleged in the complaint, if any;

VI. Additional Information

Provide any additional information that may help the Court process the abovementioned RICO claims more efficiently.

SO ORDERED.

In San Juan, Puerto Rico, this 15th day of March, 1996.


SALVADOR E. CASELLAS
U.S. District Judge